

REMARKS

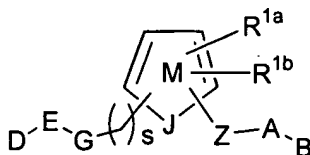
Status

Claims 17-22, 28, and 32-37 are pending, with 17-22 and 32-37 withdrawn from consideration.

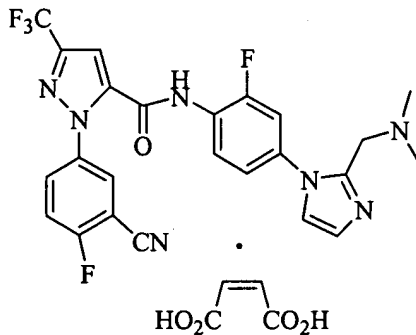
Response to Claim Rejections under 35 U.S.C. §103

The rejection of Claim 28 under 35 U.S.C. 103(a) over WO 99/32454 (WO '454) is respectfully traversed.

Applicants agree with the Office Action that WO '454 broadly describes pyrazoles of the formula:



wherein ring M can be a pyrazole and the remaining variables can be as indicated on page 4 of the Office Action. However, WO '454 REQUIRES that that substituent D, which can be cyano, is ONLY ORTHO substituted on ring E. The entire disclosure of WO '454 is based on "ortho-substituted P1" groups (see the Title and page 5, lines 6-9). The P1 group of WO '454 is the D-E group. In contrast, the compound of present claim 28 (see below) has no ortho substituent off of the corresponding phenyl (i.e., P1) group.



Instead, the presently claimed compound has a phenyl ring that is disubstituted at the meta and para positions. Since WO '454 requires an ortho substituent, there can be no motivation provided by WO '454 to make a non-ortho substituted compound like the presently claimed compound. It would be contrary to the entire disclosure.

In addition to the distinct ortho requirement of WO '454, there still is the issue of why one would select all of the necessary variables to arrive at the presently claimed

compound. Applicants contend that a great deal of non-motivated, judicious selecting would be needed to select the above compound out of embodiment [17] on pages 20-21 of WO '454. The Office Action is silent as to why one would choose, for example B as imidazole out of the 32 possible choices or why one would choose R^{4a} as $CH_2NR^2R^{2a}$ out of the 13 possible choices. These choices are particularly suspect in light of the fact that there are NO dimethylaminomethyl-imidazole examples in WO '454. The only imidazole examples described are those in the tables and these are methyl or methylsulfonyl imidazoles. WO '454 doesn't appear to provide any motivation for one of ordinary skill in the art to make dimethylaminomethyl-imidazoles.

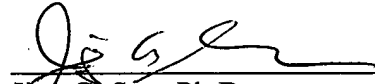
Even if one could overcome the ortho substituent requirement AND the lack of motivation for selecting the substituents of the presently claimed compound, WO '454 is also missing any reason why one would then make a maleic acid salt. There are no maleic acid salt examples in WO '454. Certainly, WO '454 lists the possibility of 31 different pharmaceutically acceptable salts on page 38. Problem is, the Office Action fails to point out why one would choose maleic acid from the list of 31. WO '454 provides no reason or motivation to make a maleic acid salt. Without such motivation, WO '454 cannot possibly obviate the presently claimed invention.

In summary, WO '454 is distinct from the presently claimed invention due to its ortho substituent requirement AND the lack of motivation to select all of the different variables of the presently claimed compound as well as the claimed maleic acid salt form. There is nothing of record that can overcome these deficiencies of WO '454. The motivation to modify WO '454 and judiciously select a few specific variables from a large number is absent from the record. Applicants, therefore, contend that the presently claimed salt cannot be considered obvious in view of WO '454. Withdrawal of this rejection is respectfully requested. Re-entry and reconsideration of Claims 17-22 and 32-37 is also respectfully requested.

In view of the foregoing, Applicants submit that the application is now in condition for allowance. Early notification of such action is earnestly solicited. If the Examiner has any questions or believes further discussion will aid examination and advance prosecution of the application, a telephone call to the undersigned is invited.

Respectfully submitted,

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